



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 10, 1998

Mr. John W. Munn
Executive Director
Tarrant County 9-1-1 District
100 East 15th Street, Suite 240, Lockbox 123
Fort Worth, Texas 76102

OR98-0407

Dear Mr. Munn:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 112437.

The Tarrant County 9-1-1 Emergency Assistance District (the "district") received a request for tapes of testimony rendered against the requestor's client by district employees during an executive session of the district board. You assert that the information is confidential as it was given during an executive session which was duly posted for consideration of personnel matters. We have considered your arguments and have reviewed the information submitted.¹

Section 552.101 of the Government Code excepts from disclosure information deemed confidential by law. Section 551.103(a) of the Government Code provides in part that "[a] governmental body shall keep a certified agenda or *make a tape recording* of the proceedings of each closed meeting . . ." (emphasis added). Section 551.103(d) provides that "[a] tape recording made under Subsection (a) must include announcements by the presiding officer at the beginning and end of the meeting indicating the date and time." Section 551.104(c) of the Government Code provides that "[t]he certified agenda or tape of a closed meeting is available for public inspection and copying

¹You inform us that three district employees provided testimony during the executive session in question. You submitted for our review a transcription of the testimony of one of the employees interviewed, as opposed to the tape itself. The Open Records Act is applicable to information on tape as well as to transcriptions thereof. Attorney General Opinion JM-37 (1983). We assume that this "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

only under a court order issued under Subsection (b)(3)" (emphasis added). Thus, such information cannot be released to a member of the public in response to an open records request. *See* Open Records Decision No. 495 (1988). Assuming the transcript submitted is from a tape recording made pursuant to the provisions of section 551.103, we conclude the district must withhold the requested information from public disclosure under section 552.101 of the Government Code in conjunction with section 551.104(c) of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/ch

Ref.: ID# 112437

Enclosures: Submitted documents

cc: Mr. Jerry Fazio
Dodge & Associates
One Lincoln Centre
5400 LBJ Freeway, Suite 800
Dallas, Texas 75240
(w/o enclosures)